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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/677,225 | 10/03/2003 | Oren Sapir | 935.43189X00 | 8599 |

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| EXAMINER | |
|---|---|
| SIEFKE, SAMUEL P | |
| **ART UNIT** | **PAPER NUMBER** |
| 1743 | |

| NOTIFICATION DATE | DELIVERY MODE |
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| 07/05/2007 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/677,225 | SAPIR ET AL. | |
| | Examiner | Art Unit | |
| | Samuel P. Siefke | 1743 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *16 April 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-10 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0169057 (herein after Ep '057).

Ep '057 discloses a method for detecting contraband substances that comprises the following steps, placing a container (smaller containers) in a closed space (large cargo container) and sampling the air within the cargo container with a filter by sucking air past the filter (page 4), the filter is then removed and the filter is heated to vaporize the particles contained on the filter and then the vapors are analyzed in a mass analyzer (abstract, page 2, lines 14-19, page 3, lines 4-12). The method is designed to detect traces of solid particles (explosive, dynamite, PETN, TNT, narcotics, heroin, cocaine, cannabis, marijuana) (page 7, 8 and table 1). The filter is a wire mesh coil that can be heated to vaporize the solid particles (page 17).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0169057 (herein after Ep '057) in view of Jenkins et al. (USPN 6,642,513).

Ep '057 teaches a method for detecting contraband substances as seen above.

Ep '057 does not teach a filter that comprises a woven fabric, a non-woven fabric, or a fabric that is made from plastic.

Jenkins teaches materials for the detection of contraband that comprises filters that are made of woven fabric, non-woven fabrics and fabrics made of plastic materials. (col. 2, line 59 –col. 3,line 17). Jenkins states that the fabrics are made of high temperature fibers which allows for rapid heating to temperatures exceeding 200 degrees Celsius. Therefore, it would have been obvious to one having an ordinary skill in the art at the time of the invention to modify Ep '057 to employ the fabrics of Jenkins because it is well known in the art that specific fabrics are capable of being heated to high temperatures thereby vaporizing any solid substances trapped therein which allows for vapor detection of the sample.

Regarding claim, it is well known in the art that animals, i.e. dogs, are specifically trained to smell and detect traces of contraband. Therefore it would have been obvious to one having an ordinary skill in the art at the time of the invention to modify Ep '057 to employ an animal sniffing the filter to determine if any contraband is on the filter because it is well known that animals can detect contraband.

***Response to Arguments***

Applicant's arguments filed 4/16/07 have been fully considered but they are not persuasive. Applicant argues, "In the present invention, no heating of the collected particulates is required." The limitations in claim 1 recite removing the filter from the sampling member and proceeding to detect the presence, if any, of solid particles of substance to be detected. Claim 1 does not state how the solid particles are analyzed. Therefore the instant method claims are fully encompassed by Ep 057.

The Applicant argues, claim 2 requires the detection of trace solid particles of the substance to be detected and states that Ep 057 does not detect trace solid particles. The Examiner points out that contraband detection inherently includes trace solid particles because contraband detection is the detection of trace solid contraband particles on an object in question. Further Ep 057 states that when contraband is packaged, particulates may be emitted through pinholes in the packaging in which the contraband is wrapped. For the contraband to escape through the pin holes sizes the Examiner maintains that contraband that escapes through the pin hole will be in trace quantities since the holes are pin size.

The Applicant argues, "pending claim 3 and 4 relate to detection by a biosensor in particular by the smell of traces of solid substances." The Examiner maintains that 3 is rejected under 35 U.S.C 102(b) as being anticipated by EP 057 and submits that the method of Ep 057 is a biosensor device. Regarding claim 4 which depends upon claim 3, it is rejected under 35 U.S.C 103(a) as being anticipated by Ep 057 in view of Jenkins. The Examiner stated, "it is well known in the art that animals, i.e. dogs, are specifically trained to smell and detect traces of contraband. Therefore it would have been obvious to one having an ordinary skill in the art at the time of the invention to modify Ep '057 to employ an animal sniffing the filter to determine if any contraband is on the filter because it is well known that animals can detect contraband." The Examiner maintains the position as recited above.

Applicant argues, claim 5 relates to detection by chemical analysis. Ep 057 does just this in that the chemicals are analyzed by mass spectroscopy which is a form of chemical analysis.

Applicant argues, "The principle of such a flat felt trap is entirely different fro mtaht of the present invention as shown in figures 1, 2 and 2A." Jenkins is employed to teach the deficiencies of Ep 057 which are the filter is not a woven fabric, a non woven fabric or a fabric that is made from plastic. One of ordinary skill in the art would have looked to Jenkins and recognized that filters can be made out of different materials. Therefore the Examiner maintains that it would have been obvious to one having an ordinary skill in the art to modify Ep 057 to employ the fabrics of Jenkins because it is well known in the art that specific fabrics are capable of being heating to high temperatures thereby vaporizing any solid substance trapped therein which allows for vapor detection of the sample.

## *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel P. Siefke whose telephone number is 571-272-1262. The examiner can normally be reached on M-F 7:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sam P. Siefke

June 28, 2007

Jill Warden
Supervisory Patent Examiner
Technology Center 1700